

## Message Text

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ACTION EA-09

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-04 H-02 INR-07

L-03 NSAE-00 NSC-05 PA-02 PRS-01 SP-02 SS-15

USIA-15 DHA-02 IO-14 /082 W

-----022399 011208Z /43

R 010857Z JUL 77

FM AMEMBASSY MANILA

TO SECSTATE WASHDC 1856

UNCLAS SECTION 1 OF 2 MANILA 10190

E.O. 11652: NA

TAGS: SHUM, PINT, RP

SUBJ: AQUINO REPLY TO MARCOS

1. FOLLOWING IS COMPLETE TEXT OF LETTER DATED JULY 1 SENT TO PRESIDENT MARCOS BY SENATOR AQUINO. BEGIN TEXT. I AM PLEASED TO ACKNOWLEDGE RECEIPT OF YOUR LETTER DATED JUNE 27, 1977, WHICH WAS DELIVERED TO ME IN MY ISOLATION QUARTERS IN THE EVENING OF THAT DATE. I ALSO WISH TO RAISE CERTAIN BASIC POINTS CONNECTED WITH YOUR DENIAL OF MY BASIC HUMAN RIGHT TO A FAIR TRIAL. ALLOW ME, ABOVE ALL, TO THANK YOU FOR THE VERY FRANK AND CORDIAL EXCHANGE OF VIEWS THAT WE HAD LAST JUNE 21, SHORTLY AFTER I WAS TAKEN OUT OF MY QUARTERS AND BROUGHT TO YOUR STUDY ROOM IN MALACANANG BY MY CUSTODIAL OFFICER, GENERAL JOSEPHUS RAMAS. I SHALL BE EQUALLY FRANK AND FORTHRIGHT IN THIS LETTER. IN YOUR LETTER, YOU ADVERTED TO THE PRESENCE OF SECRETARY OF NATIONAL DEFENSE JUAN PONCE ENRILE, SECRETARY OF PUBLIC INFORMATION FRANCISCO TATAD, AND SOLICITOR GENERAL ESTELITO MENDOZA. THIS IS CORRECT. BEING A PRISONER AND STRIPPED OF ANY LIBERTY, I DID NOT HAVE ANY FRIEND OR RELATIVE WITH ME TO BEAR WITNESS TO OUR CONVERSATION. LIKEWISE, I DO NOT HAVE ANY ACCESS TO THE LOCAL MASS MEDIA WHICH YOU CONTROL.

2. UNFORTUNATELY, YOU FORGOT TO MENTION THAT IN THE MEET-  
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ING OF JUNE 21, 1977 WE REACHED AGREEMENT ON TWO MAIN POINTS: 1. OUR CONVERSATION WAS TO BE TREATED WITH "MAXIMUM CONFIDENTIALITY". 2. SOLICITOR-GENERAL MENDOZA AND SECRETARY PONCE ENRILE WOULD STUDY ALL THE LEGAL ANGLES OF MY SIMPLE REQUEST THAT, IN THE INTEREST OF JUSTICE, THE CASES PENDING AGAINST ME BEFORE MILITARY COMMISSION NO. 2 BE TRANSFERRED TO THE CIVIL COURTS,

UNDER SUCH CONDITIONS "AS ARE PRESCRIBED BY THE LAWS OF THE LAND, AND UNDER SUCH RULES OF COMMON DECENCY SO THAT I MAY BE ASSURED A FAIR AND IMPARTIAL TRIAL" (MY LETTER TO YOU DATED JUNE 7, 1977). IF THERE ARE ANY LEGAL DIFFICULTIES THEY WERE SUPPOSED TO GET IN TOUCH AND CONFER WITH MY CHIEF LEGAL COUNSEL, SENATOR JOVITO R. SALONGA, IN ORDER TO THRESH OUT THOSE DIFFICULTIES. IN MY PRESENCE, YOU DIRECTED THEM TO MEET WITH MY COUNSEL. IT NOW PAINS ME TO SAY THAT THIS AGREEMENT WAS DISREGARDED ON BOTH COUNTS. WITHOUT MY PREVIOUS KNOWLEDGE OR CONSENT, SECRETARY TATAD CALLED A PRESS CONFERENCE WHERE SOME ASPECTS OF OUR CONVERSATION WERE DIVULGED. HE MADE YOU LOOK GOOD--AT MY EXPENSE. WORDS WERE TAKEN OUT OF CONTEXT TO MAKE ME APPEAR LIKE A BEGGAR. BUT AFTER ALMOST FIVE YEARS OF SOLITARY CONFINEMENT IN AN ARMY PRISON CAMP, THIS IS OF LITTLE CONSEQUENCE TO ME. WHAT IS IMPORTANT TO ME IS THAT NEITHER SOLICITOR GENERAL MENDOZA NOR SECRETARY ENRILE MADE ANY EFFORT TO CONTACT, MUCH LESS CONFER WITH, SENATOR SALONGA ON THE "COMPLEX PROCEDURAL AND LEGAL CONSTRAINTS" YOU POINTED OUT IN YOUR LETTER OF JUNE 27. I WAS RELIABLY INFORMED THAT, IN FACT, SOLICITOR GENERAL MENDOZA LEFT THE COUNTRY LAST JUNE 24, SHORTLY AFTER OUR MEETING IN YOUR STUDY ROOM. IN YOUR LETTER, YOU SPOKE OF EQUAL PROTECTION OF THE LAWS AND YOUR DESIRE "TO ACT IN AN EVEN-HANDED MANNER CONCERNING ALL PERSONS INVOLVED, IRRESPECTIVE OF MY (YOUR) OWN

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PERSONAL INCLINATIONS." THIS IS ANOBLE WISH INDEED, COUCHED IN BEATUFIUL LANGUAGE. BUT THIS IS WHAT YOUR OFFICE SHOULD HAVE DONE RIGHT AT THE START. LET THE RECORD SPEAK. SINCE YOUR ELECTION AS PRESIDENT IN 1965 AND YOUR UNFORGETTABLE REELECTION IN 1969, I WAS AND HAVE BEEN YOUR CONSISTENT CRITIC. RIGHTLY OR WRONGLY, MY LANGUAGE ON OCCASIONS WAS SHARP AND STINGING. ON AUGUST 24, 1971, THREE DAYS AFTER THE PLAZA MIRANDA BOMBING WHEN TOP LEADERS OF MY PARTY, THE LIBERAL PARTY WERE SERIOUSLY INJURED, YOU CALLED A NATIONWIDE TV-RADIO PRESS CONFERENCE IN THE MIDST OF WIDESPREAD INDIGNATION AGAINST YOUR ADMINISTRATION. BEFORE THE WHOLE NATION, YOU PUBLICLY INDICTED ME AND LINKED ME WITH ILLEGAL AND SUBVERSIVE ACTIVITIES, WHICH ARE VIRTUALLY THE SAME CHARGES PENDING BEFORE THE MILITARY TRIBUNAL. WHETHER OUT OF ANGER OR PIQUE YOU DECLARED THAT THE EVIDENCE AGAINST ME "IS NOT ONLY STRONG, BUT OVERWHELMING." (MANILA TIMES, AUGUST 30, 1971).

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L-03 NSAE-00 NSC-05 PA-02 PRS-01 SP-02 SS-15

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-----022421 011207Z /43

R 010857Z JUL 77

FM AMEMBASSY MANILA

TO SECSTATE WASHDC 1857

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3. I THEN EXPECTED YOU TO HAVE ME PROSECUTED BEFORE THE CIVIL COURTS, JUST LIKE ANY OTHER ALLEGED OFFENDER. BUT YOU DID NOT. MARTIAL LAW WAS DECLARED MORE THAN ONE YEAR LATER, ON SEPTEMBER 21, 1972. YOU HAD ME ARRESTED AND THROWN INTO AN ARMY PRISON CAMP. THEN YOU CREATED THIS MILITARY TRIBUNAL, COMPOSED OF YOUR DIRECT SUB-ORDINATES, TO SIT IN JUDGMENT ON ME. ITS MEMBERS ARE ALL DEPENDENT ON YOU-FOR THEIR STAY IN THE SERVICE AND FOR THEIR PROMOTION. UNDER THE LAW, YOU CAN DISSOLVE, DISBAND, OR REVAMP THIS TRIBUNAL AT ANY TIME. IT IS MY HUMBLE VIEW THAT ANYWHERE IN THE CIVILIZED WORLD, NO INDEPENDENT-MINDED OBSERVER CAN POSSIBLY SAY THAT I CAN OBTAIN "EQUAL JUSTICE UNDER THE LAW" FROM A MILITARY TRIBUNAL OF YOUR OWN CREATION, CONSIDERING YOUR PUBLIC PREJUDGMENT OF MY GUILT AND YOUR OWN PERSONAL INTEREST. FOR YOUR MILITARY SUBORDINATES TO ACQUIT ME IS TO DECLARE YOU--THEIR COMMANDER-IN-CHIEF-GUILTY. BUT FOR THEM TO CONDEMN ME IS TO AFFIRM THEIR LOYALTY TO YOU. FOR YOUR MILITARY TRIBUNAL TO ACQUIT ME IS TO HOLD YOU OUT AS RUTHLESS TYRANT WHO HAD ME DETAINED WITHOUT ANY LAWFUL CAUSE FOR FIVE LONG YEARS. BUT FOR THEM TO CONVICT ME, AS THEY MUST, IS TO JUSTIFY THIS LONG PERIOD OF SOLITARY CONFINEMENT. I BELIEVE THAT IN YOUR MIND AND HEART, YOU HAVE ALWAYS KNOWN THAT MY TRIAL BEFORE SUCH A MILITARY TRIBUNAL WOULD BE AN UNMITIGATED SHAM AND A MOCKERY.

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YOUR ISSUANCE OF PD 1165, IN WHICH YOU PROVIDED FOR APPEAL TO THE SUPREME COURT IN CASE OF CONVICTION BY THE MILITARY TRIBUNAL, DOES NOT REMEDY THIS FATAL DEFECT.

FOR IN MY CASE THE POSSIBILITY OF ACQUITTAL AT THE FIRST AND MOST CRUCIAL STAGE IS NOT ONLY REMOTE BUT IMPOSSIBLE. HOW CAN THERE BE DUE PROCESS OF LAW OR EQUAL PROTECTION OF THE LAWS, UNDER THESE CIRCUMSTANCES? MY LAWYERS HAVE ASSURED ME THAT IT IS AN ESTABLISHED LEGAL DOCTRINE THAT WHEN A DEFENDANT IS DENIED DUE PROCESS AT THE VERY OUTSET, THE ENTIRE PROCEEDING AGAINST HIM BECOMES INCURABLY TAINTED. THAT IS WHY I AM PRESSING THIS APPEAL FOR A RECONSIDERATION OF YOUR DENIAL OF MY BASIC HUMAN RIGHT TO A FAIR TRIAL, WHICH, IN A LARGER SENSE, ALSO INVOLVES THE RIGHT OF ALL FILIPINOS TO DUE PROCESS OF LAW.

4. AS I SAID DURING OUR JUNE 21 CONVERSATION, I HAVE FAITH THAT YOU CANNOT, IF YOU WISH TO BE JUST, DENY ME THIS BASIC RIGHT. THE REASONS ARE CLEAR AND UNASSAILABLE:  
A. THE "COMPLEX PROCEDURAL AND LEGAL CONSTRAINTS" OF WHICH YOU SPEAK WERE NOT OF MY OWN MAKING; B. THE FACT THAT AT THIS POINT IN OUR HISTORY AS A PEOPLE, YOUR WORD HAPPENS TO BE THE SUPREME LAW, AND ALL DEPARTMENTS AND AGENCIES OF THE GOVERNMENT ARE UNDER YOUR DIRECTION AND CONTROL (GENERAL ORDER NO. 1); C. YOU CANNOT NOW IGNORE YOUR SOLEMN ASSURANCES BEFORE THE WHOLE WORLD THAT OUR COMMITMENT TO THE CAUSE OF HUMAN RIGHTS IS AN "IRREVOCABLE ONE" (MEMORIAL DAY SPEECH OF MAY 30, 1977) AND IF I MAY QUOTE YOU IN YOUR JUNE 3, 1977 SPEECH BEFORE THE FOREIGN CORRESPONDENTS' ASSOCIATION OF THE PHILIPPINES":  
"ANY VIOLATION OF HUMAN RIGHT IS ONE TOO MANY THAT MAY NOT BE TOLERATED BY THE NEW SOCIETY ....OUR COMMITMENT TO LAW AND ORDER WILL NOT BE IMPAIRED BY ANY LACK OF REGARD FOR HUMAN RIGHT... WE SHALL TRY TO MATCH THE EFFORTS OF  
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THE BIG NATIONS IN SECURING FOR HUMAN DIGNITY THE HIGHEST PLACE IN THE HIERARCHY OF VALUES AMOUNT OUR PEOPLE."

5. THANK YOU VERY MUCH FOR YOUR DESIRE TO EXTEND TO ME "AS MUCH HELP AND UNDERSTANDING AS MAY BE LEGALLY POSSIBLE."  
ALL I ASK IS FOR YOU TO GIVE ME THE JUSTICE THAT I BELIEVE I DESERVE, AS A FELLOW HUMAN BEING AND AS A FILIPINO.  
END TEXT.  
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## Message Attributes

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